

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS,  
SAN ANTONIO DIVISION**

**MICHAEL MORENO**

**VS.**

**JOHN DOE and NICKEL EXPRESS  
INC.**

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**Civil Action No. 5:20-cv-00726**

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**NOTICE OF REMOVAL**

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**TO: THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, SAN ANTONIO DIVISION:**

COMES NOW, **NICKEL EXPRESS, Inc.**, in the above entitled and numbered cause, and presents this, its Notice of Removal of the above styled suit and pending in the 288th District Court of Bexar County, Texas, where the suit was instituted, to this United States District Court for the Western District of Texas, San Antonio Division. Removal is proper based on diversity of citizenship under 28 U.S.C. §§ 1332(a), 1441(a) and 1446. This is a civil action between citizens of different states, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. Expressly reserving all questions other than that of removal, Defendant respectfully shows that removal is proper as follows:

**I. Introduction**

1.1 Plaintiff is Michael Moreno.

1.2 Defendant is Nickel Express Inc. Defendant was at the time of this accident and still is a Michigan Corporation organized and incorporated under the laws of Michigan with its principal place of business in Michigan. Defendant is a citizen of Michigan. Defendant is not a citizen of Texas.

1.3 Because Plaintiff is a citizen of Texas and Defendant is a citizen of Michigan, complete diversity exists among the parties.

1.4 Plaintiff sued for injuries stemming from an alleged accident that occurred on January 23, 2020.

1.5 Defendant was served with the suit on May 21, 2020. Defendant files this notice of removal within the 30-day time period as required by 28 U.S.C. § 1446(b)(1). *Bd. Of Regents of Univ. of Tex. Sys. V. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5<sup>th</sup> Cir. 2007).

## **II. Basis for Removal**

2.1 Removal is proper because there is complete diversity between the parties. 28 U.S.C. §1332(a); *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 849, 899-900 (9<sup>th</sup> Cir. 2006). Plaintiff is a citizen of Texas. Defendant is corporation incorporated in Michigan with its principal place of business in Michigan. Additionally, the amount in controversy exceeds \$75,000, excluding interest and costs. 28 U.S.C. § 1332(a); *Andrews v. E.I. du Pont de Nemours & Co.*, 447 F.3d 510, 514-15 (7<sup>th</sup> Cir. 2006). Plaintiff's Petition states that "Plaintiffs is seeking monetary relief over \$200,000, but not more than \$1,000,000 including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney's fees." Because it is clear from the face of the Petition that the amount in controversy exceeds \$75,000.00, removal is proper.

2.2 Copies of all pleadings, process, orders, and other filings in the state-court suit are attached to this notice as required by 28 U.S.C. §1446(a).

2.3 Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

2.4 Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

### **III. Jury Demand**

3.1 Plaintiff did not demand a jury in the state-court suit.

### **IV. Conclusion**

4.1 Plaintiff, a citizen of Texas, filed this suit on February 6, 2020 in the 288<sup>th</sup> District Court of Bexar County in San Antonio, Texas. Defendant, a citizen of Michigan, was served with this lawsuit on May 21, 2020. Plaintiff alleged that he is seeking monetary relief over \$200,000. This Notice of Removal is within the 30-day time period required by statute. For these reasons, defendant asks the Court to remove the suit to the United States District Court for the Western District of Texas.

Respectfully submitted,

**ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.**

By: /s/ Keith N. Uhles

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**Attorneys for Defendant,**

**Nickel Express, Inc.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 20<sup>th</sup> day of June, 2020 the above and foregoing document was caused to be served upon all counsel of record via E-File/E-Mail/Facsimile and/or Regular U.S. Mail, as follows:

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/s/ Keith N. Uhles

Of Royston, Rayzor, Vickery & Williams, L.L.P.